

Committee, having had under consideration the bill (H.R. 5441) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes, had come to no resolution thereon.

### RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 5:15 p.m. today.

Accordingly (at 3 o'clock and 25 minutes p.m.), the House stood in recess until approximately 5:15 p.m.

□ 1716

### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SCHWARZ of Michigan) at 5 o'clock and 16 minutes p.m.

### PROVIDING FOR CONSIDERATION OF H.R. 5254, REFINERY PERMIT PROCESS SCHEDULE ACT

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 842 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 842

*Resolved*, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 5254) to set schedules for the consideration of permits for refineries. The bill shall be considered as read. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce; and (2) one motion to recommit.

The SPEAKER pro tempore. The gentleman from Florida (Mr. LINCOLN DIAZ-BALART) is recognized for 1 hour.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker for the purpose of debate only, I yield the customary 30 minutes to my good friend, the gentleman from California (Ms. MATSUI), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. LINCOLN DIAZ-BALART of Florida asked and was given permission to revise and extend his remarks.)

Mr. LINCOLN DIAZ-BALART of Florida. The rule provides 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce. The rule also provides one motion to recommit.

Mr. Speaker, over the last several years, we have seen gasoline prices increase steadily in the United States. The rising cost of gasoline can be attributed to several factors, including

increased demand in the United States and in other countries such as China and elsewhere, decreases in oil production in politically unstable countries, including Venezuela and Nigeria, and a lack of refinery capacity in the United States.

In the last 24 years, our refinery capacity has dropped from 18.62 million barrels a day to less than 17 million barrels a day. This at the same time that our gross domestic product has increased in current dollars from 3.1 trillion to 12.4 trillion. Because of the sustained growth of our economy and the fact that we have not built a new refinery in almost 30 years, we are now forced to import over 4 million barrels a day in refined products, and that is when our refineries are running at full capacity.

Any changes in our refinery capacity can cause supply constraints and price spikes, especially in the gulf coast, where we have approximately half of our refinery capacity. And that is exactly what happened when the Hurricanes Katrina and Rita hit the gulf coast, causing gasoline prices to rise almost 50 cent a gallon. 2 months after the storms hit we still had lost almost about 18 percent of our refining capacity, leading to sharp price increases.

In order to prevent the steep increases in gasoline prices that we saw after Hurricanes Katrina and Rita, and to try to moderate the continuing price increase, we must make certain that we build new refineries to meet our current demand and to prevent a loss of capacity due to another hurricane, or a terrorist attack for that matter. Without an increase in our refinery capacity, we will be at the mercy of countries such as Venezuela for the importation of refined oil products. Now, these countries are not reliable sources of refined products due to their politically unstable and/or unfriendly governments.

One of the biggest challenges to the building of new refineries was pointed out by Daniel Yergin of the Cambridge Energy Research Associates during a hearing in the House Energy and Commerce Committee. Mr. Yergin stated that, and I quote, "the building of new refineries has been hampered by costs, citing and permitting."

Mr. Speaker, H.R. 5254 would help alleviate some of the problems associated with the building of new refineries. The legislation directs the President to appoint a Federal coordinator to manage the multi-agency refinery permitting process. Working with the governor of any State where a refinery is proposed, the coordinator will begin by identifying and then convening all relevant agencies to coordinate the schedules for action so that no process called for in statute or regulation is short-changed, and public input opportunities are preserved, but also to allow the project to proceed as fast as otherwise possible. The goal of this legislation is to eliminate needless delay from agencies that are either dragging

their feet or simply acting in sequence when parallel action would be more efficient.

Bringing new refineries online will ease our reliance on foreign sources of refined products and will also allow us to have enough refinery capacity to meet the needs of our growing economy while providing a back up if any of our refineries are shut down for an extended period of time.

Mr. Speaker, the House has already taken steps to help lower the cost of gasoline. Last month we passed legislation to combat price gouging as well as legislation to open up ANWR to environmentally friendly energy development. However, more must be done. The underlying legislation is just another step in our continued efforts to provide relief from the high cost of gasoline.

H.R. 5254 was introduced by Representative BASS. A majority of the House has already voted in favor of this legislation. However, the bill did not pass because it was brought up under suspension of the rules and it did not obtain a two-thirds majority. Now we have another chance to pass this bill which is important to our energy needs and our growing economy.

I would like to thank Chairman BARTON and Representative BASS for their leadership on this issue. I urge my colleagues to support both the rule and the underlying legislation.

And at this time, Mr. Speaker, I reserve the balance of my time.

Ms. MATSUI. Mr. Speaker, I yield myself such time as I may consume.

I thank my friend, the gentleman from Florida, for yielding me time.

(Ms. MATSUI asked and was given permission to revise and extend her remarks.)

Ms. MATSUI. Mr. Speaker, when I was home in Sacramento last week, one constant topic of conversation was gas prices and energy policy. I heard several different perspectives on the issues.

Many working families told me they are having to adjust their monthly budgets to offset the cost of \$3 a gallon gas. Other individuals expressed concern about global warming and how our dependence on fossil fuels is driving dangerous climate change.

Still others told me they are worried that our economy and our national security are frighteningly dependent on unstable oil producing countries like Iran, Venezuela and Nigeria.

From speaking with my colleagues, it is clear that Americans are echoing these concerns across the country. So I would hope that we could all agree that our constituents, from Sacramento to Miami, want Congress to do something substantive about gas prices and energy policy.

Unfortunately, today's debate represents another missed opportunity for strategic long-term national energy policy. Today we could be addressing the pressing issues raised by my constituents and yours. But we are not.

This resolution would provide for debate for H.R. 5254. This bill purports to address the problem we saw in the wake of Hurricane Katrina and Hurricane Rita, the vulnerability of America's energy infrastructure to supply disruptions.

Because of last year's hurricanes, many refineries in the gulf are running at reduced capacity, or were knocked offline entirely. This tightened supplies and played a role in the rapid rise in gas prices. So there is an issue here for Congress to address. But there is some disagreement on exactly what the problem is.

During debate on this bill, you will hear conflicting explanations for why no new refineries have been built in the United States since 1976. The majority might cite the environmental permitting process saying it has impeded the ability of companies to build new refineries.

They will argue that if Congress just pushed the permitting process harder, if we can do some more streamlining, then new refineries will start sprouting up across the country.

However, the reality is a different matter. The central provisions of this bill are designed to streamline the environmental permitting process for new refineries. Yet, there is no evidence these changes would actually lead to the construction of one new refinery.

That is because there has not been one convincing example of a situation where the permitting process prevented, held up or stalled the construction of a refinery.

You don't have to take my word for it. You can refer to the testimony of the energy company executives. During Senate testimony last year, even they could not cite such an occasion. The fact is, new refineries have not been constructed because it has not been in the interest of industry to do so. And that is fine. It is their right to not to construct refineries. But Congress should not respond to profit motivated decisions by altering permitting processes that are functioning just fine.

Furthermore, the refinery permitting process was altered just last year in section 103 of the energy bill so why are we doing it again? Let's see if that process works before revising it again.

This flawed bill reflects the manner in which it was brought to the floor. The Energy and Commerce Committee has not held hearings on H.R. 5254. It hasn't been marked up either. If this is truly an important piece of legislation, shouldn't it come to the floor in regular order?

If the House wanted to truly address the issue of refinery capacity, we should be taking up H.R. 5365, offered by Congressmen DINGELL and BOUCHER. Their legislation would enhance America's refinery capacity by creating a Strategic Refinery Reserve to complement the Strategic Petroleum Reserve. Unfortunately the majority on the Rules Committee did not allow a vote on this legislation.

This is a commonsense proposal because in emergencies like Katrina, even when the President releases crude oil from the Strategic Petroleum Reserve, we may not have the refinery capacity to process it.

The Dingell/Boucher bill would direct the Energy Department to establish a Strategic Refinery Reserve that can produce 5 percent of daily demand for gasoline.

This reserve would ensure that additional refinery capacity is available during emergencies, strengthening our national security while helping to mitigate upward price pressures. And in non emergencies, it would provide refined products to the Federal fleet, easing demand on the rest of the market.

This is a forward-thinking and logical proposal. I was disappointed that the Rules Committee voted against making it in order as a substitute, because if we had passed a Dingell/Boucher bill, at least I could tell my constituents Congress did something substantive to deal with America's energy challenges.

When I return to my district next week and in the coming weeks and months, I would like to be able to tell my constituents that Congress understands what you are dealing with in terms of gas prices and energy.

We know we can't fix everything overnight. But we have got a real plan for the future.

I want to be able to tell them that we are going to reduce demand by promoting energy conservation and fuel efficient forms of transportation. And we are going to work to develop renewable sources of fuel and other innovative technologies.

Taken together, these will help America move towards energy independence. And we are going to stop providing subsidies to companies that are making record profits, and instead, we are going to help working Americans deal with high gas prices.

I really wish I could say all of those things. But that is not going to be possible if the House continues to consider unnecessary and misguided legislation like this bill.

I urge my colleagues to vote against this rule because this bill did not go through regular order, because it comes to the floor under a closed rule which does not allow for its improvement, and because it does not allow the commonsense Dingell/Boucher substitute.

□ 1730

I urge my colleagues to vote against the underlying bill. Such a vote will reject this misguided approach to energy policy. A "no" vote on this legislation would send a message that Congress is ready to consider truly substantive legislation that addresses the energy crisis this Nation faces. Please join me in sending that important message.

Mr. Speaker, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, it is my privilege to yield such time as he may consume to the distinguished gentleman from Texas (Mr. HALL).

Mr. HALL. Mr. Speaker, I rise in support of the rule, of course, providing for consideration of H.R. 5254, the Refinery Permit Process Schedule Act.

First, let me explain the bill. It will create a new system for coordinating the myriad permits and authorizations required under Federal law in order to get refineries built and operating.

Mr. Speaker, a Federal coordinator will call a meeting of all officials involved in issuing permits under Federal law. For those permits that require State officials to implement Federal law, the governor of the State where the refinery would be located selects the participants. Under the leadership of the coordinator, the officials will hammer out a coordinated schedule for acting up or down on permit applications. The schedule will be published in Federal Register. Once the regulatory work begins, if an agency slips behind schedule, the applicant may go to court to get the schedule restored.

The bill also calls on the President to suggest that we use closed military bases as possible candidates for siting refineries, subject to local approval.

H.R. 5254 explicitly preserves the letter and intent of all laws for environmental protection and public participation, and, for the first time, it gives priority to EPA in scheduling permit processing. But it also instills discipline and interagency teamwork into the system so that needless bureaucratic delay can be eliminated.

Why do we need this bill? Witness after witness at our Energy and Commerce Committee hearings have testified to the shortage of refinery capacity in the United States. It is shocking to most Americans that we are importing more gasoline every day and that our domestic capacity to make gasoline is at its upper limits. This causes upward pressure on prices, which we all experience at each fill-up.

One reason that refinery capacity is so tight is the regulatory costs and uncertainty of permitting. We want to take that excuse off the table. But what we really want to do is open the U.S. market to new entrants who will refine traditional fuels and alternatives such as coal-to-liquid and biofuels, both of which are set out in H.R. 5254.

The process for H.R. 5254 started last year on September 7, 2005, just days after Katrina struck the gulf coast. We held hearings that led to H.R. 3893, the Gasoline For America's Security Act. Sections 101, 102 and 103 of H.R. 3893 on refinery streamlining formed the foundation of H.R. 5254.

After a vigorous floor debate, H.R. 3893 passed the House, but it has not been taken up by the Senate. So on May 2 of this year, our colleague from New Hampshire, Mr. BASS, introduced this new version of refinery streamlining that provides for State input

and, more explicitly, preserves underlying Federal environmental laws.

A bipartisan majority of the House voted for H.R. 5254 when it was brought up under suspension of the rules. During that debate, some Members suggested that the bill does not defer adequately to the role of States in permitting decisions. After the debate was over and the bill had garnered 237 votes, but shy of the two-thirds needed under suspension, we reached out to our friends on the other side of the aisle to explore common language. In fact, we offered an amendment designed to address the State role issue, even more than we had already in the underlying bill.

The chairman of the full committee asked that this bill be pulled from the schedule several weeks ago so that bipartisan discussions could be given a chance. Our colleagues in the minority really had three options. Their first option was to accept the new language as fully answering their concern, which I believe it did; option two was to suggest modifications or alternatives to achieve the same purpose; option three was to take their ball and go home. The alternative to "take their ball and go home" meant to decide that negotiations would not produce an agreement.

They chose option three, which surprised us. We thought a deal was possible, and we made suggestions to address their concerns.

We are here today with the same bill that received 237 votes last month because the bill already deferred to governors on the designation of State officials to participate in the development of the coordinated plan, and because 237 of us confirmed our support for H.R. 5254 earlier this month, without any further changes, I think that no amendments to the bill are necessary.

I urge a "yes" vote on the rule.

Ms. MATSUI. Mr. Speaker, I yield 4 minutes to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentlelady for yielding.

Mr. Speaker, I rise in opposition to this rule and urge its defeat. It is sadly typical of the way this Republican House has operated that the members of the committee of jurisdiction, including the distinguished ranking member Mr. DINGELL, are not allowed to offer amendments during floor debate. I say that is typical, but it doesn't make it right. We need reform of the way this House is being run.

Mr. Speaker, I offered a simple amendment in the Rules Committee to strike section 5 of the bill, the section of the bill that requires the President to designate three closed military bases as sites for an oil refinery. For bases that are chosen, section 5 requires local redevelopment authorities, or LRAs, to halt their re-use planning and consider an oil refinery even if the local community doesn't want one. My amendment was denied.

I would have offered the amendment in an Energy and Commerce Com-

mittee markup, but the committee never held a markup. So the bill will arrive on the floor not once, but twice, without the opportunity to debate amendments and without a committee markup.

Communities that have suffered under the impact of a closed military base do not need the President of the United States or the Congress usurping authority for local land use decision making.

Moreover, section 5 is unnecessary. There is nothing, I repeat, nothing in the current statutes or Defense Department regulations that prevents a community from developing a closed base into an oil refinery. If the local community wants an oil refinery, then it certainly can develop one on a closed military base.

Here is the main point: The underlying bill, when read together with the BRAC statutes and regulations, has the effect of forcing an LRA, if designated by the President, to spend local resources and valuable time developing a reuse plan for an oil refinery, even if the community the LRA represents has no interest in a refinery.

Moreover, because under the BRAC law the Secretary of Defense has the final and sole authority to accept a reuse plan and to determine the future use of the base, the effect of section 5 of this bill is to force a community to accept an oil refinery, even if it doesn't want one.

I have no problem with an oil refinery being built in a closed military base in a community that wants the refinery built. But that should be decided by the community, not by the President, not by the Secretary of Defense and not by the Congress. My amendment protected local control. It should have been allowed. I urge my colleagues on both sides of the aisle to reject this rule.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 6 minutes to the distinguished gentleman from New Hampshire (Mr. BASS), the author of this important legislation.

Mr. BASS. Mr. Speaker, I thank my friend from Florida for recognizing me, and I want to thank the staff, the chairman of the Commerce Committee and the chairman of the energy committee, Chairman BOEHLERT, for their participation in working out this piece of legislation.

As has been said before, this legislation passed the House a few weeks ago 237-188. Although it prevailed by a pretty good margin, it wasn't enough to make the two-thirds margin required for suspension, so we bring it up today under regular order.

I just want to point out exactly what this bill does. It directs the President to appoint a coordinator for the process of considering refinery citing permits.

It requires that coordinator to work with, not against, but with Federal, State and local entities to issue the needed permits and approvals and set

an agreed upon schedule for each approval.

It also allows this coordinator to establish a memorandum of agreement with all the relevant parties which will set forth the most expeditious path toward a coordinated schedule for permitting.

It allows the local Federal district court to enforce this agreed upon schedule, giving proper opportunity for good faith delays and setbacks.

It instructs the President, as we heard a minute ago from my friend from Maine, to designate at least three closed military installations as potentially suitable areas for the construction of a refinery. And, by the way, at least one of those must be designated as usable for a biorefinery, not an oil refinery.

I would point out, as has been debated the last time the bill came up, we haven't built a new refinery in this country since 1976. Gasoline demand in the United States has doubled since then; doubled. Our current capacity for refining gasoline is about 17 million barrels a day. Our consumption is over 21 million barrels a day, which means that the deficit is being imported as a finished goods product from abroad. We are indeed importing an enormous quantity of gasoline every day, which is adding to the instability of gasoline prices as well as availability.

Secondly, too much of our refining capacity is in one part of the country. We learned last year when energy prices climbed 50 cents a gallon at gas stations that Katrina, going through Louisiana and the Gulf of Mexico, can have a devastating impact on availability when refineries are shut down for short periods of time or even longer periods of time. We need to have a more diverse geographic location for refinery capacity in our country.

Furthermore, our current refinery capacity is too reliant on crude oil as a feedstock. Less than 2 percent of our motor fuel is based only anything other than crude. Our national agriculture and forest industry resources can sustainably provide feedstock to displace more than one-third of our transportation fuels. I am hopeful. I would welcome a biorefinery in my neck of the woods. We need refined ethanol to replace MTBE as an oxygenate for gasoline.

We have heard the opponents of this legislation say that even big oil industry, the oil companies, don't think that expediting the permitting process is necessary. Well, I would rather not take the word of the big oil companies as to whether or not they think tight refinery supply is good or bad for business. I don't want to give them any excuse for saying that they can't build new refinery capacity.

Nothing in this legislation will circumvent any existing regulation that exists today. All it does is make it quicker and more expeditious and more efficient, but it doesn't eliminate nor short circuit any local protections.

Others say we are better off expanding current refinery capacity. Well, I addressed that a little bit a minute ago. The danger we face in having a few very large refineries and not other refinery capacity in this country is serious. The impact on consumers, on the economy, can be devastating if we only have a dozen or two. The increased dependence on foreign oil that we may face under these circumstances is significant.

My friend from California earlier mentioned that there is no evidence that the passage of this legislation would lead to the construction of any new refinery. That is a difficult question to answer, because if you don't make it easier, how are you going to know that making it easier doesn't work? The fact is that we know that it can take up to 10 years to get the permitting process done.

I would point out that this bill does no harm whatsoever to the current process, but it makes it work better. If the industry doesn't like it, I don't want to be on the side of an industry that wants to restrict increasing refinery capacity.

I believe that what we envision in this bill protects the environment, it protects the process, it can potentially lead to more diverse and better and modern refinery capacity in this country, which will lead to a stronger economy, lower gas prices in my part of the world, and yet at the same time protecting our fragile environment.

□ 1745

So I urge the Congress to not oppose this rule, bring this bill to the floor, and pass it on to the Senate.

Ms. MATSUI. Mr. Speaker, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. HALL).

Mr. HALL. Mr. Speaker, first I would like to point out again, as Mr. BASS did, that nothing in this bill forces communities designated by the President to submit to Secretary Rumsfeld a reuse plan that includes a refinery, even if they do not want to build one.

The opposite is true. Actually, this is going to go to districts that want them, and we have districts who do want them. I hold in my hand a letter from the Texarkana Chamber of Commerce, Texarkana, Texas, signed by the president of that chamber, the county judge, the Bowie County judge, the mayor, both mayors on the Arkansas side and Texas side.

Mr. Speaker, it is going to go to places who really want them, and the bill requires that the Secretary of Defense give substantial deference to the local redevelopment authority's recommendation, even if that recommendation rejects the refinery.

And the President has no power to direct. He has power only to suggest. And you can see that by looking at section 5, line 16. That simply says: "The

President shall designate no less than three closed military installations, or portions thereof, as potentially suitable for the construction of a refinery."

So these places are going to be sought after. Maine has nothing to fear. If they do not want it, they can cancel it by simply saying they do not want it. We would be very happy to have it over in Texarkana, Texas and serve four States there that come together.

I urge, of course, the support of this bill.

Ms. MATSUI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will be asking Members to vote "no" on the previous question so I can amend this rule, closed rule, and allow the House to consider the Boucher-Dingell Strategic Refinery Reserve substitute.

This substitute was offered in the Rules Committee when this rule was reported last month, but was blocked on a straight party-line vote.

Mr. Speaker, I ask unanimous consent to print the text of the amendment and extraneous materials immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Ms. MATSUI. Mr. Speaker, whatever position Members have on this legislation, they should vote against the previous question so we can consider a much better approach to our Nation's refinery shortage.

The Boucher-Dingell substitute, which is identical to the text of H.R. 5365, will establish a strategic refinery reserve. This reserve would complement the Strategic Petroleum Reserve. It would provide a much needed safety net for this Nation during times when existing refineries are temporarily or even permanently unavailable.

It would also be used to supply fuel to the Federal Government and the military during those times when oil production is not compromised.

Vote "no" on the previous question so we can consider this important and responsible substitute. I want to make it very clear that a "no" vote will not stop us from considering H.R. 5254, but a "yes" vote will block consideration of the Boucher-Dingell substitute.

Again, I urge all Members to vote "no" on the previous question.

Mr. Speaker, I yield back the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank all of our distinguished colleagues that have spoken on this rule today. It brings to the floor an important piece of legislation, a bill that this House considered and voted with the solid majority under suspension of the rules just some weeks ago, but it did not obtain the

two-thirds vote necessary to pass under suspension of the rules. That is why we have brought it forth again under the regular order with a rule.

It will help. It will contribute to helping our country with the energy crisis that we face, when we recognize the fact that the economy has grown, as it has so tremendously in the last 30 years and yet not one single refinery has been constructed. Evidently, there is a problem. This seeks to do something about it.

So that is why we are bringing again this legislation for consideration of the House under this rule. Accordingly, Mr. Speaker, in order to consider that legislation, we have brought this rule forward, and I would ask all of my colleagues to support it as well as the underlying legislation.

Mr. MARKEY. Mr. Speaker, I rise in opposition to this Rule and to the underlying bill.

Let me begin by saying that I've been in Congress for 30 years now, and this is absolutely the worst energy bill I've seen since the bill the House defeated just over one month ago!

In fact, it is the same exact bill—risen from the grave like some horror movie monstrosity to haunt this House yet again.

The Rule we are considering for this bill is an absolute insult to this House and to the Members. It is a complete and total gag Rule. It makes absolutely no amendments in order. It allows only one hour of debate on the bill. It waives all points of order against the bill.

The Rules Committee Republicans voted down Democratic motions to report this bill with an open rule.

The Rules Committee Republicans voted down a Democratic Motion to make in order an amendment by the gentleman from Maine (Mr. ALLEN) to strike provisions from the bill that would require the designation of no less than 3 closed military bases for use as refineries.

The Rules Committee Republicans voted down a Democratic Motion to make in order an amendment by the gentleman from Virginia (Mr. BOUCHER) to establish a Strategic Refinery Reserve to help cushion the shock of extreme supply disruptions with a federal refinery that would have surge capacity to produce refined products when needed.

Why are the Republicans afraid of having a debate and a vote on these Democratic amendments?

Are they afraid of giving the Members an opportunity to approve a measure that might actually do something to reduce gas prices, and ensure that the rights of local communities are not trampled upon in order to advance the interests of the oil industry? We should be able to have that debate and vote on these amendments today.

We shouldn't be forced to put our amendments into a recommittal motion at the end of the bill in which we will only have 10 minutes of total debate time.

Once again, the Republican Majority that controls this Congress is abusing its power and trampling upon the rights of the Minority.

This bill has never been the subject of any legislative hearing in the Energy and Commerce Committee. It was introduced by the gentleman from New Hampshire (Mr. BASS), on May 2nd of this year and then brought immediately to the House floor on the Suspension Calendar one day later.

Now, the Suspension Calendar is normally used for non-controversial bills that have approved on a bipartisan basis. Most of the time, we use the Suspension Calendar to bring up bills to name post offices, pass commemorations, or enact Sense of Congress resolutions. It is entirely inappropriate to use the Suspension process for a bill as contentious as the Bass bill, because that process bars any amendments and sharply limits floor debate.

Thankfully, the Bass bill failed when brought up as a Suspension. It deserves to fail again here on the Floor today.

There still have never been any legislative hearings on this bill.

Hearings has been no Subcommittee or Committee process.

The Democratic Members of the Energy and Commerce Committee have been walled out.

This is a bad bill. It deserves to be defeated.

I urge the Members to reject this Rule, to reject this unfair process, and to reject the Bass Refinery bill.

The material previously referred to by Ms. MATSUI is as follows:

PREVIOUS QUESTION FOR H. RES. 842

H.R. 5254—REFINERY PERMIT PROCESS SCHEDULE ACT

Text:

In the resolution strike “and (2)” and insert the following:

“(2) the amendment in the nature of a substitute printed consisting of the text of H.R. 5365 if offered by Representative Boucher of Virginia or Representative Dingell of Michigan or a designee, which shall be in order without intervention of any point of order or demand for division of the question, shall be considered as read, and shall be separately debatable for 60 minutes equally divided and controlled by the proponent and an opponent; and (3)”.

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308-311) describes the vote on the previous question on the rule as “a motion to direct or control the consideration of the subject before the House being made by the Member in charge.” To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that “the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition” in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: “The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition.”

Because the vote today may look bad for the Republican majority they will say “the vote on the previous question is simply a

vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever.” But that is not what they have always said. Listen to the Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment.”

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled “Amending Special Rules” states: “a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate.” (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon.”

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. MATSUI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5521, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2007

Mr. BISHOP of Utah, from the Committee on Rules, submitted a privileged report (Rept. No. 109-487) on the resolution (H. Res. 849) providing for consideration of the bill (H.R. 5521) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2007, and for other purposes, which was referred to the House Calendar and ordered to be printed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 5 o'clock and 53 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

□ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SCHWARZ of Michigan) at 6 o'clock and 30 minutes p.m.

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2007

The SPEAKER pro tempore. Pursuant to House Resolution 836 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5441.

□ 1831

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5441) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes, with Mr. BONNER (Acting Chairman) in the chair.

The Clerk read the title of the bill.

The Acting CHAIRMAN. When the Committee of the Whole rose earlier today, the amendment offered by the gentleman from Kentucky (Mr. ROGERS) had been disposed of and the bill had been read through page 62, line 17.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

Amendment by Mr. KING of Iowa.

Amendment by Mr. KINGSTON of Georgia.

The Chair will reduce to 2 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. KING OF IOWA

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Iowa (Mr. KING) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 218, noes 179, not voting 35, as follows: